

Applicant: Paul and Cynthia Alderete

Agent: NA

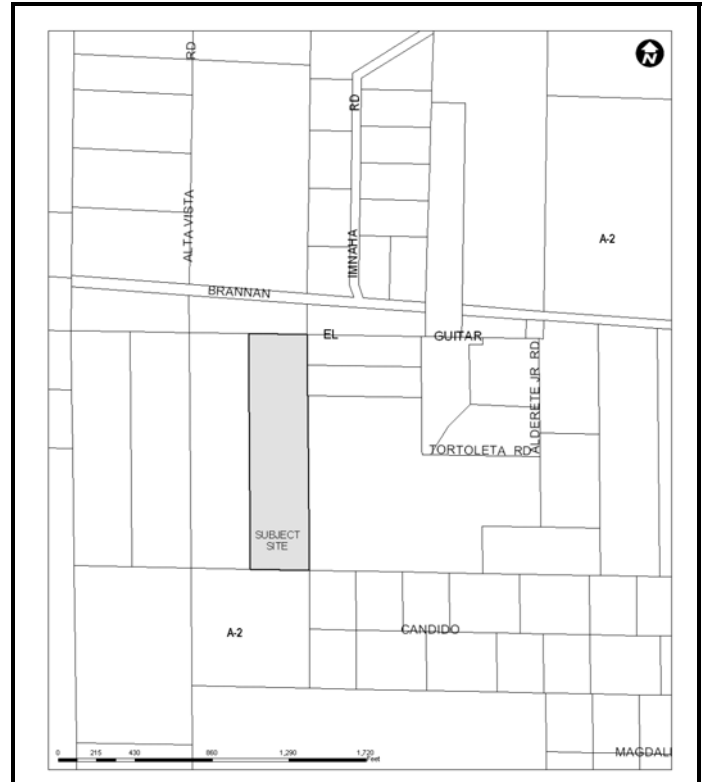
Location: 91 Brannan Rd.

Property Size: Approximately 9.54 acres

Existing Zone: A-2

Proposed Request: Special Use Permit for a Contractor's Yard

Recommendation: Approval



Summary: The applicant is requesting a Special Use Permit in order to park and conduct maintenance on work vehicles that are used in the business of water hauling.

Staff Planner: Mari Simbaña, Program Planner

Attachments:

1. Application
2. Land Use and Zoning Map
3. Site Plan (Commissioners Only)

Bernalillo County Departments and other interested agencies reviewed this application from February 26, 2008 to March 10, 2008.
Agency comments were used verbatim in preparation of this report, and begin on page 13.

AGENDA ITEM NO.: 7
County Planning Commission
April 2, 2008

CSU-80010 Paul A. & Cynthia M. Alderete request approval of a Special Use Permit for a Contractor's Yard on Tract 4A, Lands of Ernest J. & Rosalie L. Alderete, located on 85 Brannan Road, containing approximately 9.54 acres, and zoned A-2. (M-35)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

Site	Zoning	Land Use
	A-2	Contractor's Vehicle parking
North	A-2 Right-of-Way	Vacant Brannan Road
South	A-2	Vacant Residential
East	A-2	Residential Vacant
West	A-2	Vacant

BACKGROUND:

The Request

The subject site of approximately 9.54 acres, is located south of Brannan Rd. and west of NM 217. The site accesses Brannan Rd. via La Guitara Trail.

The specific request is to allow the parking and maintenance of work trucks that are used for a water hauling business that has been in operation since 1985. The water source for the businesses is an off-site well. The family owned business provides water to local residents for storage tanks, livestock, and new building and road construction sites. Water has also been voluntarily supplied in emergency situations for fighting local fires. The site is not open to the public, therefore, the traffic is limited to employees' parking and working on the vehicles.

The Site Plan shows several structures on the site including a currently occupied mobile home. The caretaker unit occupants access a storage shed, a water storage tank and a septic tank all within a 6ft-high fenced area. The large 2400sqft garage/shop is used for parking trucks when water is not being hauled in them. Adjacent to this is an older 900sqft garage. Toward the middle of the lot, there is a barn and corral. A well is located in the south half of the lot.

Request Justification

The applicant believes that the requested use supports a much needed business in the East Mountain Area. Because there is no centralized water system, residents rely on water storage tanks. The unique situation exists due to the amount of adjacent land owned by the applicants and the distance from other occupied residential lots.

Surrounding Land Use and Zoning

The site is nearly $\frac{3}{4}$ of a mile west of NM217. The site, on approximately 10 acres, is surrounded predominantly by vacant properties zoned A-2. The adjacent properties are owned by the applicant and applicant's family.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

Policy 3 The stated Goal of the Rural Area is "to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns." The following includes applicable policies:

Policy 3.a. of the Rural Area Goal states that "higher density development may occur at appropriate locations. Rural Area density patterns shall be more specifically defined through lower rank planning. Each higher density area is to be controlled by site development plan and is to be located well away from other such higher density areas."

Policy 3.b states that “Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate.”

Policy 3.f states that “Development shall be carefully controlled in the East Mountain Area to prevent environmental deterioration, and to be compatible with the resource base and natural recreational and scenic assets.”

Policy 3.g states that “the following shall guide industrial and commercial development in the Rural Areas.”

- Small-scale, local industries, which employ few people and may sell products on the same premises, are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.”

Policy 6 Economic Development goal is, “to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.”

Policy 6.a states that, “New Employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encouraged and new jobs located convenient to the areas of most need.”

Policy 6.b states that, “Development of local business enterprises as well as the recruitment of the outside firms shall be emphasized.”

Policy 6.g states that, “Concentrations of employment and Activity Centers should be promoted in an effort to balance jobs with housing and population and reduce the need to travel.”

East Mountain Area Plan Goals and Objectives

General Land Use – 1 Goal

- Protect the property rights of property owners while ensuring the health, safety, and welfare of all inhabitants.

Visual Resources – 4 Goal

- Maintain and improve the existing visual quality of the East Mountain Area.

Objective

- Recognize the natural and visual environment, particularly features unique to the East Mountain Area as a significant determination in development decisions.

Economic And Commercial Development – 9

Goal

- Achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.

Objectives

- Promote sound economic development that includes small-scale, local businesses.
- Provide new employment opportunities for area residents which will accommodate a wide range of occupational skills and salary levels.
- Promote tourism with careful attention to the potential for impacts of tourism on the East Mountain Area residents, rural character, and environment.

Policies

- 9.1 Commercial development shall occur in commercial corridors and nodes identified through an economic development study, sector plan, or master plan approved by Bernalillo County.
- 9.2 Prohibit new Special Use Permits for commercial and manufacturing that would be equivalent to M-2 zoning.
- 9.3 New commercial development shall be of an appropriate scale to meet the needs of the area residents and not degrade the environment.
- 9.4 Encourage small-scale business to develop with the potential for providing local employment.

Possible Techniques

- Establish commercial corridors and nodes to allow for the location of neighborhood-scale businesses that generate jobs and provide needed goods and services to EM residents while maintaining rural character.
- Focus light industrial and commercial development in selected areas with adequate utilities and transportation access and set apart from any existing or future residential neighborhoods or other incompatible land uses.
- Reserved portions of the community strictly for commercial activity to accommodate a variety of wholesale, retail, service and offices uses where the highest traffic volumes and greatest utility demands can be served and more extensive signage and outdoor display of materials will be expected and permitted.

Rural Character

The most important issue identified by respondents on the 2003 questionnaire was the retention of rural character, confirmed by responses to other Survey questions. The vision of the East Mountain Area residents is to maintain this rural character. This is the focus of discussion in the Community Vision section which can be found in Appendix G. Rural character is defined by natural landscape, open spaces, undisturbed ecosystems, quietness, views of the landscape and the sky, limited traffic, large lots, privacy, and small-scale local businesses.

Bernalillo County Zoning Ordinance

Resolution 116-86 defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. An error in the original zone map.
 - 2. Changed neighborhood conditions, which justifies a change in land use or
 - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:

1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Section 18. Special Use Permit Regulations.

- A. By Special Use Permit after receipt of a recommendation from the Bernalillo County Planning Commission, the Board of County Commissioners may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance; the Bernalillo County Commission may likewise authorize the increase in height of buildings beyond the limits set by previous sections of this ordinance. With such permits, the Bernalillo County Commission may impose such conditions and limitations as it deems necessary:
1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located;
 2. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
 3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and

4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

B.32.a

(Office/Commercial) In certain situations based on unique conditions the owner may apply for any of the specific uses set forth in Sections 12, 13, 14, or 15 of this Ordinance. The special use for a specific use (office/commercial) may be granted if the owner/applicant proves by clear and convincing evidence that: (1) unique conditions exist that justify the request and (2) there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use.

Section 19: Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

- A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.
 1. Sites of one acre or less:
 - a. There shall be a landscaped setback along all streets of no less than ten feet.
 - b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
 - c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall contribute toward this requirement.
 2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.
- B. In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.
- E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.

G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.

H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform with this regulation within two years due to the amendment of the map or text of this ordinance.

ANALYSIS:

Surrounding Land Use and Zoning

The site is predominantly surrounded by residential properties zoned A-2 and owned by the applicant or the applicant's family. The closest lot having a Special Use Permit for a Contractors Yard is under 1.5 miles away at NM217 and Saddle Spur. About 2.5 miles further north, is the next closest lot with a Special Use Permit for a Contractors Yard, abutting Old Hwy. 66. Less than 1.5 miles south, is a lot with a Special Use Permit for

Plans

The request appears to be compatible with the *Albuquerque/Bernalillo County Comprehensive Plan's* recommendation of small scale, locally owned industries. The subject site is not in a commercial corridor as designated in the *East Mountain Area Plan*.

Zoning Ordinance

The main activities proposed to occur on the subject site are parking and maintenance of work vehicles. There is also a watchman/caretaker mobile home. These uses together, qualify the site as a Contractor's Yard, compelling the applicants to request a Special Use Permit.

Agency Comments

There were no adverse comments regarding the request. Environmental Health staff needs to review and approve a Maintenance and Hazard Material Disposal Plan. The on-site well must have a final inspection. Additionally, staff has requested proof of appropriate permitting for use of off-site well that supplies water hauling business. Water Resources staff is similarly concerned with the adequate permitting for off-site water source well. Public Works staff would like to see a corrected Site Plan showing La Guitara and El Guitar private access easements.

Analysis Summary

Zoning	
Resolution 116-86	Proposed use supports a needed service to the community.
Plans	
Comprehensive Plan	The request qualifies as a desirable use as it is a small-scale, local industry, employing few people (Rural Area Policy G)

East Mountain Area Plan	The request is a neighborhood-scale commercial use meeting the needs of local residents. (Policies 9.1 & 9.2)
Other Requirements	
Environmental Health	-Provide a Maintenance and Hazard Material Disposal Plan -Get final inspection of on-site well -Secure appropriate permitting for water source well
Public Works	The dimensions of La Guitara and El Guitar must be shown on the site plan.
Water Resources	Concern with permitting, source well, and amount of water imported from Santa Fe County for hauling business.

Conclusion

The East Mountain Water Hauling LLC has been in operation since 1985. The applicants wish to work with the County to secure all the required permits and allowances to continue their family-owned businesses. While it is necessary for the applicants to meet requirements for operation of the business, most notably proper permitting of the water source well, this Special Use Permit request can be authorized pending Conditions of Approval. Outstanding items for this Special Use Permit application include the approval by Environmental Health staff of a plan outlining maintenance and disposal of hazardous materials as well as a revised site plan showing the access easements.

The site is unique in that it's location amidst 75 acres of land owned by the applicants and their family, isolate it from other residents in the community. The site is not open to the public, therefore, the business-related traffic is minimal and generated by employees. The Response to Resolution 116-86 states that the site is kept clean and the site visit by staff verifies that by and large, this is so. All structures shown on the Site Plan are existing and, as of this application, no new structures are planned. The proposed activities constitute a use that, at this time, is small-scale, has no negative impacts, and supports a service to the community. Therefore, staff recommends approval.

RECOMMENDATION:

Staff recommends Approval of the request.

Mari Simbaña

Program Planner

FINDINGS:

1. This is a request for approval of a Special Use Permit for a Contractor's Yard on Tract 4A, Lands of Ernest J. & Rosalie L. Alderete, located on 85 Brannan Road, containing approximately 9.54 acres, and zoned A-2.
2. The property is within the Rural Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
3. This request is consistent with Resolution 116-86, as this land use is more advantageous to the community as it supports water provision to residents.
4. This request is consistent with the East Mountain Area Plan as the proposed activity is a community scale commercial use that meets the needs of the area.

CONDITIONS:

1. On-site parking shall be limited to 4 parking spaces, including one handicapped space, and additional vehicle storage shall be within enclosed garage space.
2. A solid fence at least six feet high shall be maintained around the perimeter of the property, on sides abutting any residential uses.
3. Lighting shall be site-specific. Shielded or cutoff fixtures shall be provided so that no fugitive light crosses to adjacent lots.
4. The applicant shall comply with the Bernalillo County Noise Ordinance. No outdoor speakers or amplified sound systems shall be permitted. Ambient noise levels shall be measured on property boundaries in accordance with Bernalillo County Code, Section 30-115.
5. Prior to approval, the applicant must revise the Site Plan to show the dimensions of La Guitarra and El Guitar private access easements.
6. A Maintenance and Hazardous Materials Disposal Plan must be submitted by the applicant for approval by Bernalillo County Environmental Health prior to approval of this Special Use Permit.
7. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
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8. The applicant shall comply with all applicable Bernalillo County ordinances and regulations.
9. A revised site plan consistent with the conditions of approval shall be submitted for review and approval to the Zoning Administrator within 30 days from the date of final Board of County Commissioners approval.
10. The Special Use Permit shall be issued for three years.
11. The foregoing Conditions shall become effective immediately upon execution or utilization of any portion of the rights and privileges authorized by this Special Use Permit, and shall

be strictly complied with within one year.

BERNALILLO COUNTY DEPARTMENT COMMENTS

Zoning Administrator:

No comment received

Environmental Health:

2/28/08

General Information:

The applicant is a water hauling company. They currently purchase water from the Bassett family in Edgewood, NM [Santa Fe County]. The water is diverted from an irrigation well [OSE #E-1593] into the applicants tanker trucks and then hauled to the customer site for resale.

Issues:

The Bassett well is not certified, licensed or permitted for the diversion of water for resale by the Office of the State Engineer or NMED. The water quality for potable purposes hasn't been established with the Bernalillo County Office of EH.

Bernalillo County Office of Environmental Health has no jurisdiction for permitting or monitoring the Bassett well being that it is in Santa Fe County.

Responsibilities:

1. The Alderete's shall provide all applicable assurances to the Bernalillo County Office of EH that the water they resell has met the water quality standards required by Bernalillo County Office of EH and the NMED Drinking Water Bureau.
2. The Alderete's shall provide written proof that the water they sell is from a lawfully permitted, licensed and certified water provider as governed by the laws of the State of NM and Bernalillo County.
3. The applicant shall provide a vehicle maintenance and hazardous materials disposal plan.
4. The domestic well on-site requires a final inspection from the Bernalillo County Office of EH.

Zoning Department Manager:

COUNTY PLANNING COMMISSION

APRIL 2, 2008

CSU-80010

2/29/08

NO ADVERSE COMMENT FROM ZONING ENFORCEMENT

Based on the above comments there is no adverse comments at this time.

there are no zoning violations on this property.

Building Department Manager:

No comment received

Public Works:

DRAN:

3/4/08

1. This property is subject to Chapter 38 of the Bernalillo County Code for Flood Damage Prevention and Storm Drainage. Drainage information in support of this special use application was received with building permit BRBP 80024. A formal grading and drainage plan prepared by an engineer licensed in the State of New Mexico and approved by Bernalillo County Public Works may be required prior to additional development of this property.

DRE:

3/7/08

1. Access to the site is from a private access easement off of Brannan Road, a County maintained paved road. The dimensions of La Guitara and El Guitar must be shown on the site plan.

Water Resources

3/3/08

Public Works Water Resources is deferring resolution of comments to EH. Of particular concern to Water Resources are the lack of NMED permitting for the water hauler, uncertainty regarding permitting of the source well in Santa Fe County, and the need for data regarding the amount of water being imported into Bernalillo County and the relation to OSE permits that are being utilized.

Fire Department

2/16/08

NO ADVERSE COMMENTS AT THIS TIME.

Parks & Recreation:

2/14/08

REVIEWED, NO COMMENT

Sheriff's:

No comment received

COMMENTS FROM OTHER AGENCIES

MRGCOG:

2/27/08

MRCOG staff have no comment on this proposal. For information purposes, Brannan Rd has a functional classification of urban local road.

AMAFCA:

3/3/08

No comment.

City Planning Department:

No comment received

Transportation Division

3/5/08

No adverse comments.

City Public Works:

Transp. Planning:

No comment received

Transp. Development: No comment received

No comment received

Water Resources: No comment received

City Transit:

No comment received

ABCWUA Utility Development Section

3/4/08

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City Environmental Health:

No comment received

City Open Space:

3/11/08

Open Space has no adverse comments

NM Department of Transportation

3/2/08

Possible Impacted NMDOT roadway(s): NM 333

Departments Comments: Due to the size, and location of the development, there will be no significant impact to the state roadway system. Therefore, we have no requirements or objections to the processing of the requested special use permit.

Albuquerque Public School:

No comment received

Village of Tijeras

No comment received

Public Service Company of New Mexico

3/10/08

No comment received

MRGCD

No comment received

NEIGHBORHOOD ASSOCIATIONS:

East Mountains District 5 Coalition